

REMARKS

Claims 1-6, 16-17, and 22-25 are pending in this application. Upon entry of this Amendment claims 1-6, 16-17, 22 and amended claims 23-25 will be pending.

Rejection of claim 24 under 35 U.S.C. §112 second paragraph

The Examiner rejected claim 24 under 35 U.S.C. §112, second paragraph for not supporting the preamble in the body of the claim.

In response, applicant respectfully traverses the rejection. Without conceding the appropriateness of the rejection, applicant has amended claim 24. Amended claim 24 now recites:

A process for converting organic materials into a gaseous fuel comprising the steps of anaerobically digesting organic materials in the presence of an electrical potential to produce carbon dioxide and a gaseous fuel comprising hydrogen, methane, and mixtures thereof.

Accordingly, applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 24 under 35 U.S.C. § 112.

Rejection of claim 24 under 35 U.S.C. §102(b)

The Examiner has rejected claim 24 under 35 U.S.C. §102(b) as anticipated by Langhans et al.

In response, applicant respectfully traverses the Examiner's 35 U.S.C. § 102(b) rejection. Without conceding the appropriateness of the rejection, applicant has amended claim 24 as indicated above.

Applicant respectfully notes that Langhans et al. does not describe, teach or suggest an energy conversion process involving anaerobic digestion of organic materials in the

presence of an electrical potential. Applicant thus respectfully requests that the Examiner reconsider and withdraw the rejection of claim 24 under 35 U.S.C. § 102(b).

Rejection of claim 25 under 35 U.S.C. §112

The Examiner has rejected claim 25 under 35 U.S.C. §112 for lack of antecedent basis for the term “said voltage”.

In response, applicant respectfully traverses the Examiner’s 35 U.S.C. §112 rejection. Without conceding the appropriateness of the rejection applicant has amended claim 25. Amended claim 25 now recites:

The process of claim 17 in which said intermittent voltage is generated by a hydrogen fuel cell.

Applicant respectfully asserts that the term “said intermittent voltage” in dependent claim 25 derives its antecedent basis from independent claim 17. Accordingly, applicant requests that the Examiner reconsider and withdraw the rejection of claim 24 under 35 U.S.C. § 112.

Rejection of claim 25 under 35 U.S.C. §103(a)

The Examiner has rejected claim 25 under 35 U.S.C. §103(a) as being allegedly unpatentable over Langhans et al. in view of U.S. Patent No. 5,254,934 to Carabetta et al.

In response, applicant respectfully traverses the Examiner’s rejection. Applicant notes that claim 25 depends from claim 17 thus claim 25 derives its patentable distinctiveness in part from claim 17 which recites:

A process for conversion of biomass wastes into useful energy comprising the steps of: application of intermittent voltage for purposes selected from the group including depression of microorganismal activity that produces methane,

enhancement of microorganismal activity that produces hydrogen, and creation of an atmosphere within said biomass wastes that is maintained rich in hydrogen.

Claim 25 further provides that the source of the voltage in claim 17 is a hydrogen fuel cell.

Applicant respectfully maintains that Langhans and Carabetta, alone or in combination, do not disclose teach or suggest a process for conversion of biomass wastes into useful energy via the application of intermittent voltage for purposes of depressing microorganismal production of methane, enhancement of microorganismal activity that produces hydrogen, and/or the creation of an atmosphere within the biomass wastes that is maintained rich in hydrogen where the intermittent voltage is supplied by a hydrogen fuel cell. For example, Langhans merely discloses a process for obtaining methane gas production by cycling wastes through one or more culture mediums without the application of any voltage, intermittent or otherwise. Carabetta discloses a method for converting the chemical energy of methane into electricity via an MHD generator and a fuel cell. Carabetta does not in any way disclose, teach or suggest the use of voltage, intermittent or otherwise, to effect the production of any type of gases from biomass wastes.

Taken together, the combination of Langhans and Carabetta does not disclose, teach or suggest the use of electricity provided by a fuel cell or otherwise, for the purposes of depression of microorganismal activity that produces methane, enhancement of microorganismal activity that produces hydrogen, and/or creation of an atmosphere within said biomass wastes that is maintained rich in hydrogen.

Rejection of claims 1-23 under Obviousness-type Double Patenting

The Examiner has rejected claims 1-23 under the judicially created doctrine of double patenting over U.S. Patent No. 6,090,266 which was filed June 6, 1996. Applicants

respectfully note that claims 7-15 and 18-21 were cancelled in applicant's Preliminary Amendment dated August 17, 2001, and that of the claims rejected under the judicially created doctrine of double patenting, only claims 1-6, 16-17, 22-23 are pending in this application.

Applicant respectfully traverses the Examiner's obviousness-type double patenting rejection as it is applied to claims 1-6, 16-17, and 22-23, and, as it might be applied to claims 24 and 25. U.S. Patent No. 6,090,266 does not claim that the electrical potential or voltage applied be of an intermittent or occasional nature as recited in all of the pending claims of this application.

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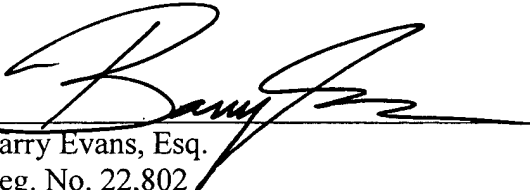
In view of the foregoing, applicant respectfully requests that the Examiner reconsider and withdraw the rejections set forth in the September 25, 2003 Office Action and allow the presently pending claims, namely claims 1-6, 16-17, 22-23 and amended claims 23-25.

No fee, other than the fee for a two-month extension of time, is believed to be necessary in connection with the filing of this Response. However, if any additional fee is necessary, applicant hereby authorizes such fee to be charged to Deposit Account No. 50-0540.

In order to accelerate prosecution of the subject application, applicant invites the Examiner to telephone applicant's undersigned attorney at the telephone number given below.

Dated: February 25, 2004

By:


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